

**PETITION FOR A WRIT OF HABEAS CORPUS BY A PERSON IN STATE CUSTODY**

Name GRAY, SAM, D.  
 (Last) (First) (Initial)

Prisoner Number V-59334

Institutional Address P.O. BOX 290066, FC6/206  
REPRESA, CALIF. 95671-0066

**UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA**

SAM DONTE GRAY  
 (Enter the full name of plaintiff in this action.)

vs.

J. L. WALKER (WARDEN),

(Enter the full name of respondent(s) or jailor in this action)

Case No. **2259**  
 (To be provided by the clerk of court)

**PETITION FOR A WRIT  
 OF HABEAS CORPUS**

E-filing

(PR)

Read Comments Carefully Before Filling In

When and Where to File

You should file in the Northern District if you were convicted and sentenced in one of these counties: Alameda, Contra Costa, Del Norte, Humboldt, Lake, Marin, Mendocino, Monterey, Napa, San Benito, Santa Clara, Santa Cruz, San Francisco, San Mateo and Sonoma. You should also file in this district if you are challenging the manner in which your sentence is being executed, such as loss of good time credits, and you are confined in one of these counties. Habeas L.R. 2254-3(a).

If you are challenging your conviction or sentence and you were not convicted and sentenced in one of the above-named fifteen counties, your petition will likely be transferred to the United States District Court for the district in which the state court that convicted and sentenced you is located. If you are challenging the execution of your sentence and you are not in prison in one of these counties, your petition will likely be transferred to the district court for the district that includes the institution where you are confined. Habeas L.R. 2254-3(b).

PET. FOR WRIT OF HAB. CORPUS

- 1 -

OS-2009 WHA

FILED  
 APR 30 2008  
 CLERK, U.S. DISTRICT COURT  
 NORTHERN DISTRICT OF CALIF.

Who to Name as Respondent

You must name the person in whose actual custody you are. This usually means the Warden or jailor. Do not name the State of California, a city, a county or the superior court of the county in which you are imprisoned or by whom you were convicted and sentenced. These are not proper respondents.

If you are not presently in custody pursuant to the state judgment against which you seek relief but may be subject to such custody in the future (e.g., detainees), you must name the person in whose custody you are now and the Attorney General of the state in which the judgment you seek to attack was entered.

A. INFORMATION ABOUT YOUR CONVICTION AND SENTENCE

1. What sentence are you challenging in this petition?

- (a) Name and location of court that imposed sentence (for example; Alameda County Superior Court, Oakland):

ALAMEDA COUNTY SUPERIOR COURT OAKLAND, CALIFORNIA

Court

Location

- (b) Case number, if known 144911

- (c) Date and terms of sentence DECEMBER 1, 2004

- (d) Are you now in custody serving this term? (Custody means being in jail, on parole or probation, etc.) Yes XX No

Where?

Name of Institution: CSP-NEW FOLSOM, REPRESA, CALIF.

Address: P.O. BOX 290066, REPRESA, CALIF. 95671-0066

2. For what crime were you given this sentence? (If your petition challenges a sentence for more than one crime, list each crime separately using Penal Code numbers if known. If you are challenging more than one sentence, you should file a different petition for each sentence.)

MURDER, PENAL CODE SEC. 187; AND USE OF A FIREARM PENAL CODE SEC.

12022.53, subd. (d)

3. Did you have any of the following?

Arraignment: Yes XX No     

Preliminary Hearing: Yes XX No     

Motion to Suppress: Yes xx No     

4. How did you plead?

Guilty \_\_\_\_\_ Not Guilty xx Nolo Contendere \_\_\_\_\_

Any other plea (specify) \_\_\_\_\_

5. If you went to trial, what kind of trial did you have?

Jury XX Judge alone \_\_\_\_\_ Judge alone on a transcript \_\_\_\_\_

6. Did you testify at your trial? ~~Yes~~ No           

7. Did you have an attorney at the following proceedings:

(a) Arraignment Yes xx No       

(b) Preliminary hearing Yes XX No       

(c) Time of plea Yes xx No     

(d) Trial Yes XX No       

(e) Sentencing Yes xx No     

(f) Appeal Yes xx No     

(g) Other post-conviction proceeding Yes \_\_\_\_\_ No xx

8. Did you appeal your conviction? Yes XX No       

(a) If you did, to what court(s) did you appeal?

Court of Appeal Yes xx No     

Year: 2005 Result: AFFIRMED

Supreme Court of California Yes xx No       

Year: 2006 Result: DENIED

Any other court Yes xx No       

Year: 2007      Result: DENIED

(b) If you appealed, were the grounds the same as those that you are raising in this

1 petition? Yes XX No       

2 (c) Was there an opinion? Yes XX No       

3 (d) Did you seek permission to file a late appeal under Rule 31(a)?

4 Yes        No       

5 If you did, give the name of the court and the result:

6 CALIFORNIA COURT OF APPEAL, FIRST APPELLATE DISTRICT,

7 DIVISION NO. THREE, RESULTS: AFFIRMED

8 9. Other than appeals, have you previously filed any petitions, applications or motions with respect to  
9 this conviction in any court, state or federal? Yes XX No       

10 [Note: If you previously filed a petition for a writ of habeas corpus in federal court that  
11 challenged the same conviction you are challenging now and if that petition was denied or dismissed  
12 with prejudice, you must first file a motion in the United States Court of Appeals for the Ninth Circuit  
13 for an order authorizing the district court to consider this petition. You may not file a second or  
14 subsequent federal habeas petition without first obtaining such an order from the Ninth Circuit. 28  
15 U.S.C. §§ 2244(b).]

16 (a) If you sought relief in any proceeding other than an appeal, answer the following  
17 questions for each proceeding. Attach extra paper if you need more space.

18 I. Name of Court: SUPREME COURT OF CALIFORNIA

19 Type of Proceeding: WRIT OF HABEAS CORPUS

20 Grounds raised (Be brief but specific):

21 a. BRADY ISSUE WHICH ALSO EFFECTED RIGHT TO COUNSEL, CON-

22 b. FRONTATION, AND FAIR TRIAL

23 c.       

24 d.       

25 Result: DENIED Date of Result: Jan. 30, 08

26 II. Name of Court:       

27 Type of Proceeding:       

28 Grounds raised (Be brief but specific):

1 a. \_\_\_\_\_

2 b. \_\_\_\_\_

3 c. \_\_\_\_\_

4 d. \_\_\_\_\_

5 Result: \_\_\_\_\_ Date of Result: \_\_\_\_\_

6 III. Name of Court: \_\_\_\_\_

7 Type of Proceeding: \_\_\_\_\_

8 Grounds raised (Be brief but specific):

9 a. \_\_\_\_\_

10 b. \_\_\_\_\_

11 c. \_\_\_\_\_

12 d. \_\_\_\_\_

13 Result: \_\_\_\_\_ Date of Result: \_\_\_\_\_

14 IV. Name of Court: \_\_\_\_\_

15 Type of Proceeding: \_\_\_\_\_

16 Grounds raised (Be brief but specific):

17 a. \_\_\_\_\_

18 b. \_\_\_\_\_

19 c. \_\_\_\_\_

20 d. \_\_\_\_\_

21 Result: \_\_\_\_\_ Date of Result: \_\_\_\_\_

22 (b) Is any petition, appeal or other post-conviction proceeding now pending in any court?

23 Yes \_\_\_\_\_ No XX

24 Name and location of court: \_\_\_\_\_

25 B. GROUNDS FOR RELIEF

26 State briefly every reason that you believe you are being confined unlawfully. Give facts to  
27 support each claim. For example, what legal right or privilege were you denied? What happened?

28 Who made the error? Avoid legal arguments with numerous case citations. Attach extra paper if you



1 need more space. Answer the same questions for each claim.

2 [Note: You must present ALL your claims in your first federal habeas petition. Subsequent  
3 petitions may be dismissed without review on the merits. 28 U.S.C. §§ 2244(b); McCleskey v. Zant,  
4 499 U.S. 467, 111 S. Ct. 1454, 113 L. Ed. 2d 517 (1991).]

5 Claim One: THE PROSECUTOR COMMITTED "BRADY" ERROR WHERE HE WITHHELD  
6 IMPEACHMENT MATERIALS WHICH WERE CRUCIAL TO PETITIONER'S DEFENSE  
7 VIOLATING HIS FIFTH, SIXTH, AND FOURTEENTH AMENDMENT RIGHTS  
8 Supporting Facts: THE FACTS IN SUPPORT OF PETITIONER'S CLAIMS ARE FAR  
9 TOO LENGTHY TO FIT IN THIS SPACE PROVIDED, THEREFORE, PETITIONER  
10 HAS ADDED ADDITIONAL PAGES EXPLAINING HIS CLAIMS AND THE  
11 SUPPORTING FACTS. (SEE ADDITIONS TO PAGE SIX.)

12 Claim Two: THE PROSECUTOR IMPROPERLY VOUCHER FOR THE CREDIBILITY OF  
13 ITS OWN EVIDENCE, VIOLATING PETITIONER'S SIXTH AMEND. RIGHT TO CON-  
14 FRONTATION  
15 Supporting Facts: THE FACTS IN SUPPORT OF PETITIONER'S CLAIMS ARE FAR  
16 TOO LENGTHY TO FIT IN THIS SPACE PROVIDED, THEREFORE, PETITIONER  
17 HAS ADDED ADDITIONAL PAGES EXPLAINING HIS CLAIMS AND THE SUPPORTING  
18 FACTS. (SEE ADDITIONS TO PAGE SIX.)

19 Claim Three: THE PROSECUTOR COMMITTED PREJUDICIAL ERROR IN HIS  
20 ARGUMENTS TO THE JURY, VIOLATING PETITIONER'S FIFTH, AND FOURTEENTH  
21 AMEND, RIGHTS  
22 Supporting Facts: THE FACTS IN SUPPORT OF PETITIONER'S CLAIMS ARE FAR  
23 TOO LENGTHY TO FIT IN THIS SPACE PROVIDED, THEREFORE, PETITIONER  
24 HAS ADDED ADDITIONAL PAGES EXPLAINING HIS CLAIMS AND THE SUPPORTING  
25 FACTS. (SEE ADDITIONS TO PAGE SIX.)

26 If any of these grounds was not previously presented to any other court, state briefly which  
27 grounds were not presented and why:  
28

1 need more space. Answer the same questions for each claim.

2 [Note: You must present ALL your claims in your first federal habeas petition. Subsequent  
3 petitions may be dismissed without review on the merits. 28 U.S.C. §§ 2244(b); McCleskey v. Zant,  
4 499 U.S. 467, 111 S. Ct. 1454, 113 L. Ed. 2d 517 (1991).]

5 **FOUR:** ~~ONE~~ THE "CUMULATIVE" EFFECT OF THE ERROR AT TRIAL DEPRIVED PET-  
6 ITIONER OF A "FAIR" TRIAL WITHIN THE MEANING OF THE FIFTH, SIXTH,  
& FOURTEENTH AMEND.

7 Supporting Facts: THE FACTS IN SUPPORT OF PETITIONER'S CLAIMS ARE FAR TOO  
8 LENGTHY TO FIT IN THE SPACE PROVIDED, THEREFORE, PETITIONER HAS  
9 ADDED ADDITIONAL PAGES EXPLAINING HIS CLAIMS AND THE SUPPORTING  
10 FACTS. (SEE ADDITIONS TO PAGE SIX.)

11 **FIVE:** ~~ONE~~ THE BRADY VIOLATION AT TRIAL, ALSO DEPRIVED PETITIONER OF HIS  
12 RIGHTS TO CONFRONTATION, A FUNDAMENTALLY FAIR TRIAL, AND RIGHT TO  
EFFECTIVE ASSISTANCE OF COUNSEL

13 Supporting Facts: THE FACTS IN SUPPORT OF PETITIONER'S CLAIMS ARE FAR TOO  
14 LENGTHY TO FIT IN THE SPACE PROVIDED, THEREFORE, PETITIONER HAS  
15 ADDED ADDITIONAL PAGES EXPLAINING HAS CLAIMS AND THE SUPPORTING  
16 FACTS. (SEE ADDITIONS TO PAGE SIX.)

17 ~~ONE~~

18  
19 Supporting Facts: \_\_\_\_\_  
20 \_\_\_\_\_  
21 \_\_\_\_\_  
22 \_\_\_\_\_

23 If any of these grounds was not previously presented to any other court, state briefly which  
24 grounds were not presented and why:  
25 \_\_\_\_\_  
26 \_\_\_\_\_  
27 \_\_\_\_\_  
28 \_\_\_\_\_

PET. FOR WRIT OF HAB. CORPUS

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## TIMELINESS OF FEDERAL PETITION

The instant petition is governed by limitations established by the Antiterrorism and Effective Death Penalty Act of 1996 (hereinafter AEDPA), or 28 U.S.C. §2254(d)(1). AEDPA imposes a one-year statute of limitation on applications for writ of habeas corpus by a person in custody pursuant to a judgment of a state court. The limitations period begins to run from "the date on which the judgment became final or by the conclusion of direct review and/or the expiration of time for seeking such review." (28 U.S.C. §2254(d)(1)(A).)

Additionally, that time during which a properly filed application for state post-conviction relief is pending -- is not counted against the one-year limitations period. (28 U.S.C. §2254(d)(2).) Lastly, the Ninth Circuit had determined that the conclusion and finalization of direct review includes the ninety-day time period in which to file a petition for writ of certiorari to the U.S. Supreme Court. (See *Brown v. Roe*, 188 F.3d 1157, 1158-59 (9th Cir. 1999)).

Taking into account the various time constraints mentioned herein above, the instant habeas petition is to be submitted well within the statute of limitations period. Following direct review, petitioner subsequently filed a state habeas petition which was recently denied, on or about Jan. 30, 2008. Immediately after the Jan. 30, denial, petitioner diligently sought to file the instant habeas petition, however, prison lockdowns impeded his progress to some degree. (See Exhs 1 through 4 attached herewith.)

Petitioner has also sent, prior to the filing of his original habeas petition, a five (5) dollar filing fee. As a "Pro Se" litigant, he did not realize that the fee was to be paid along with the filing of his habeas petition. Hence, the court has received, in advance, petitioner's filing fee.

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## STATEMENT OF THE FACTS

After years of Kenneth Rankin taunting, beating, and threatening him, sixteen year old Sam Gray shot Rankin, believing that if he did not, Rankin would shoot him. Sam met Rankin in 2001 at camp Sweeney, a juvenile detention facility. (RT 532.) Upon meeting Sam, Rankin asked him where he was from. Sam said from Milton, an area in Oakland. Rankin immediately left and came back with a group of peers from Ghost Town, a rival area to Milton, and forced Sam to fight them, one by one. (RT 532-534.) After Sam fought Rankin's "homeboy," Rankin, who was physically much larger than Sam, assaulted him. (RT 282.)

Rankin beat Sam severely and then told him that if he ever saw him on the street he would kill him. (RT 534, 536, 537.) Sam described for jurors how Rankin tried to "stomp him out," by punching, kicking, and strangling him until Sam was unconscious. (RT 536.) From that moment on, Sam feared Rankin and believed he would carry out his threat to kill him if he saw him when they returned to the streets. (RT 551.)

Several months later, on the street, he met Rankin, who shot him an aggressive look and said "what's up" in such a way that Sam understood he wanted to fight, pick up where they left off at Camp Sweeney. Sam walked away. (RT 568.) In August, 2002, Sam began selling cocaine for Rankin. (RT 569, 570, 574.) In September, an ounce Rankin had "fronted" to Sam was stolen. (RT 84, 572, 579, 584.) Rankin gave Sam two days to pay for the drugs, and said otherwise he would kill him. (RT 585.)

That night Rankin showed up at Sam's grandmother's house, where Sam lived. He displayed a snub nose pistol, asked for Sam, and stated to Sam's grandmother "I am gonna kill that nigger." (RT 588, 726.) When Sam got home, his grandmother told him what had happened. Sam believed what Rankin said. (RT 588.)

Unable to find the money to pay Rankin, Sam went to a local dice game. (RT

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1 592.) Rankin showed up at the game. (RT 595.) He slapped Sam and told his  
2 friends at the dice game to "keep the nigger there" so he could retrieve a gun  
3 to shoot Sam. (RT 605.) Afraid Rankin would shoot him on the spot (RT 614), Sam  
4 pulled his hood over his face. Right after passing the two, he turned and shot  
5 Rankin. (RT 610.) Rankin fell and Sam ran. (RT 116, 118, 612.)

6 About two months later a youth named Pardain called juvenile counselor  
7 Jeannise Gonzalez, claiming that he had met Sam in a parking lot and that Sam  
8 had told him "I was the mother fucker that shot that nigger," meaning Rankin.  
9 (RT 362, 526.)

10 On November 13, 2002, Oakland police responded to a report of a young man  
11 armed with a gun. (RT 489.) Responding, an officer saw Sam. (RT 489.) The  
12 officer chased Sam to a roof top where he was arrested. (RT 491.) Along the path  
13 of the chase, the officer found a pistol. (RT 492.) The gun was later shown to  
14 have fired the slug that killed Rankin. (RT 417.) Sam was arrested and  
15 interrogated for seventeen hours. (RT 472.) Ultimately, he admitted he had shot  
16 Rankin. (RT 466; see Exhs. 15, 15-A, 16, 16-A, 17, & 17-A [tape recorded  
17 confession and typed transcript].)

18 At trial, Sam testified that he shot Rankin only because he believed there  
19 was no other way he could prevent Rankin from shooting him. (RT 605.) Sam's  
20 father had been shot to death when Sam was three (RT 538, 736), his two cousins  
21 had also been gunned down on the streets of Oakland (RT 539, 737), he and his  
22 mother had been carjacked (RT 538, 741), a youth had once shot at him and his  
23 mother, he had to dodge bullets from an Uzi at a burger joint (RT 544). Sam  
24 came to believe that he easily be the next one to be gunned down. (RT 622.) He  
25 lost hope and dropped out of school. (RT 542.)

26 Sam testified that, from the first time Rankin threatened his life at Camp  
27 Sweeney, he believed Rankin was resolved to kill him. (RT 588), and his fear  
28 became more acute when Rankin threatened him over the drug debt, threatened his

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1 life to his grandmother (RT 588), and threatened him at the dice game the night  
2 of the shooting (RT 598, 604, 694, 699).

3  
4 STANDARD OF REVIEW

5 Under the applications provision of AEDPA, a federal court cannot grant  
6 relief on any claim adjudicated on the merits in state court unless  
7 adjudication of the claims "[r]esulted in a decision that was 'contrary to,' or  
8 an 'unreasonable application' of clearly established federal law as determined  
9 by the U.S. Supreme Court; or unless the state court findings resulted in a  
10 decision that was based on an 'unreasonable determination' of the facts in light  
11 of the evidence presented in the state court proceedings." (28 U.S.C.  
12 §2254(d)(1)(2); Williams v. Taylor, 529 U.S. 362, 409 (2000); and Price v.  
13 Vincent, 538 U.S. 634, 638-39 (2003)).

14 Here, in the case at bench, petitioner contends that the state courts  
15 holdings, in grounds I through V, were both "contrary to," and "unreasonable  
16 determination" of the facts in light of the evidence presented at his trial."  
17 He further contends that in an "evidentiary hearing" he can make the required  
18 showing to demonstrate that he is, in fact, entitled to relief on each of the  
19 claims raised herein. (Caro v. Calderon, 165 F.3d 1223 (9th Cir. 1999)). See  
20 also (28 U.S.C. §2254(e); and Jones v Wood, 114 F.3d (9th Cir. 1997)).

21  
22 SUPPORTING FACTS TO GROUND I:

23 The prosecutor withheld critical portions of Baskin's testimony. Baskin,  
24 according to the prosecution and police, was a reliable informant, thus, the  
25 prosecutor felt that he had no duty to disclose those portions of Baskin's  
26 interview with Sgt. Nolan of the Oakland police, as well as statements Baskin  
27 made later in a conversation with the prosecutor. (RT 429, 433, 435-36; and  
28 264.)

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1 The prosecution at trial argued, in response to a defense motion regarding  
2 withholding of Brady materials and requested sanctions, that it had no duty to  
3 turn over material that was not recorded by Sgt. Nolan, or the statements  
4 Baskin made in recorded conversations between him and the prosecutor. (RT 264.)

5 The court of appeals in direct review, wrongly sided with the trial court  
6 denial of petitioner's claim and affirmed petitioner's conviction. It further  
7 found that the defense made no claim that the omitted evidence was exculpatory.  
8 (Opn. at p.5.)

9 Petitioner contends that the appropriate inquiry under Brady is the "effect  
10 the withheld evidence had on the defendants rights" and the "outcome of trial"  
11 rather than the [reason] for nondisclosure. (Brady at p. 87; also Brown v. Borg,  
12 951 F.2d 1011, 1015 (9th Cir. 1996).) Further, the prosecution, in Brady  
13 matters, may not be excused from disclosing what it does not know but could have  
14 learned. (Carriger v. Stewart, 132 F.3d 463, 479 (9th Cir. )(en banc), cert.  
15 denied 118 S.Ct. 1827, 140 L.Ed.2d 963 (1998); United States v. Kearns, 5 F.3d  
16 1251, 1254 (9th Cir. 1993); and Kyles v. Whitley, 514 U.S. 419, 437-38 (1995)).

17  
18 SUPPORTING FACTS TO GROUND II:

19 The prosecution, during petitioner's trial, improperly vouched for various  
20 statements made by Baskin allegedly in his interviews with Sgt. Nolan. Baskin,  
21 in one interview with police, gave an account of the shooting of Rankin that  
22 suggest petitioner was not in fear of his life as testified to at trial, but  
23 rather -- after consuming an Ecstasy pill on the night of the murder,  
24 petitioner's, according to Baskin, made statements to the effect. . . "I finna  
25 pop this nigga like whoo whoo whoo." (Exh 14-A at p.2.)

26 When Baskin denied most of what he had allegedly told Sgt. Nolan in the  
27 interviews, the prosecutor had Sgt. Nolan testify at trial that the "recorded"  
28 portions of Nolan's interview with Baskin represented the portions where Baskin

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1 was being truthful. Thus, this segment of Baskin's testimony, because of the  
2 improper vouching by the prosecution, went unchallenged within the meaning of  
3 petitioner's rights to Confrontation. Further, that such error is not harmless.

4 Petitioner contends that the prosecutions "misconduct" at trial violated  
5 his Fifth, Sixth, and Fourteenth Amendment right as guaranteed by the U.S.  
6 Constitution and the trial court admonishment did not cure said errors as found  
7 by the Court of Appeal. (Opn. at p.6.) Likewise, failure to object is not a  
8 bar to certain fundamental rights. (Opn. at p.6) Thus, the following case law  
9 supports petitioner's claim: United States v. Necoechea, 986 F.2d 1273 (9th Cir.  
10 1992); United States v. Shaw 829 F.2d 714, 716-18, cert. denied, 485 U.S. 1022  
11 (1988); United States v. Smith, 962 F.2d 923 (9th Cir 1992); United States v.  
12 Molina, 934 F.2d 1440, 1445 (9th Cir. 1991); and Chapman v. California (1967)  
13 386 U.S. 18, 24.

14  
15 SUPPORTING FACTS TO GROUND III:

16 In at least four (4) different instances during trial and closing  
17 arguments, the prosecutor in the case at bench committed misconduct either by  
18 insults to defense witnesses, or deliberately misstating the law. (4RT 798; 4RT  
19 799; 4RT 865; 4RT 866-867.) Petitioner argued below in state court, among  
20 other things, that a prosecutor's intemperate behavior violates the federal  
21 constitution when it comprises a patten of conduct "so egregious that it infects  
22 the trial with such unfairness as to make the conviction a denial of due  
23 process. (Pet. For Review at pp.25-26.) The court of appeals wrongly found  
24 that the trial court admonishment cured the improper statements by the  
25 prosecution. (Opn. at p.6)

26 Petitioner contends that he has a secured and absolute right to a "fair  
27 trial" and "due Process" throughout the course of such proceedings. (U.S. Const.  
28 Fifth, Sixth, and Fourteenth Amend.) Here, in the instant cause, the prosecutor

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1 infringed upon those rights by constantly blurting insults about  
 2 petitioner or defense witnesses in general and/or purposely misstating  
 3 statutory provisions of the law. Such prosecutorial misconduct  
 4 is cognizable on federal habeas corpus where the due process  
 5 violation complained of impacts upon petitioner's liberty and  
 6 other constitutional entitlements. (Hick v. Oklahoma (1980) 447  
 7 U.S. 343, 346-47; and Walker v. Deeds, 50 F.3d 670 673 (9th Cir.  
 8 1995)).

9  
 10 SUPPORTING FACTS TO GROUND IV:

11 Petitioner's claim of "cumulative" error rests upon the  
 12 prosecutions misconduct in failing to disclose the contents of  
 13 its pretrial interviews with Baskin, which interacted with the  
 14 prejudicial effects of the prosecutions improper vouching for  
 15 the credibility of Baskin's statements to Sgt. Nolan. Then,  
 16 at closing arguments, the prosecutor improperly commented about  
 17 petitioner and his grandmother (a defense witness) who the prosecutor  
 18 wrongly asserted that she somehow fabricated her testimony to  
 19 help petitioner.

20 Petitioner contends that the "cumulative" effects of the  
 21 trial court error(s) here, in the case at bench, constituted  
 22 a violation of his rights to due process as secured by the Fourteenth  
 23 Amend. to the U.S. Const. Further, state law error(s) "that  
 24 might not be so prejudicial as to amount to a deprivation of  
 25 due process when considered alone, may cumulatively produce a  
 26 trial setting that is fundamentally unfair." (Cooper v. Sowders,  
 27 837 F.2d 284, 286-88 (6th Cir. 1988); Greer v. Miller (1987)  
 28 ~~837 F.2d 284, 286-88 (6th Cir. 1988); Greer v. Miller (1987)~~

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1 483 U.S. 756, 764; Taylor v. Kentucky(1978) 436 U.S. 478, 488;  
2 Donnelly v. DeChristoforo (1974) 416 U.S. 637, 642-43; Lincoln  
3 v. Sunn, 807 F.2d 805, 814 fn6 (9th Cir. 1987)).

4  
5 SUPPORTING FACTS TO GROUND V:

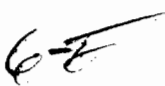
6 The prosecutions failure to disclose Mitchell Baskin's conflict-  
7 ing statements made to Sgt. Nolan and the Prosecutor prior to  
8 trial deprived petitioner and his trial counsel of an opportunity  
9 to cross-examine Baskin thoroughly regarding his conflicting  
10 amounts of the facts leading up to the shooting of Rankin, and  
11 Baskin's sorted knowledge of language allegedly used by petitioner  
12 in describing how he was going to "pop" (shot) Rankin. as a  
13 result of this failure to disclose, petitioner's counsel failed  
14 to object, in a timely fashion, to Sgt. Nolan's testimony regarding  
15 the truthfulness of Baskin's taped recorded statements.

16 Petitioner contends that the error(s) here violated his  
17 Sixth Amendment right to counsel (Strickland v. Washington, 466  
18 U.S. 667, 668); his right to Confrontation under the Fifth and  
19 Sixth Amendments (Crawford v. Washington, 541 U.S. 36 (2004);  
20 as well as his Fourteenth Amendment right to a fundamentally  
21 fair trial and due process (Bruno v. Rushin, 721 F.2d 1193 (9th  
22 Cir 1983).

23 Therefore, for each of the reasons set forth herein above,  
24 petitioner's conviction should be reversed and the judgment vacated  
25 sending the entire matter back to state court with instructions.

26 ///

27 ///

28 

1 List, by name and citation only, any cases that you think are close factually to yours so that they  
2 are an example of the error you believe occurred in your case. Do not discuss the holding or reasoning  
3 of these cases:

4 (SEE ADDITIONS TO PAGE SIX AFFIXED HEREWITH.)  
5  
6

7 Do you have an attorney for this petition? Yes\_\_\_\_\_ No XX

8 If you do, give the name and address of your attorney:  
9

10 WHEREFORE, petitioner prays that the Court grant petitioner relief to which s/he may be entitled in  
11 this proceeding. I verify under penalty of perjury that the foregoing is true and correct.

12  
13 Executed on 4/22/08

14 Date

Sam Donte Gray  
Signature of Petitioner

15  
16  
17  
18  
19  
20 (Rev. 6/02)

# PROOF OF SERVICE

(C.C.P. §§1013(a); 2015.5; 28 U.S.C. §1746)

I, Sam Dante Gray, am over the age of eighteen (18) years, and I (am) (am not) a party to the within cause of action. My address is:

P.O. Box 290006  
REPRESA CA, 95067  
\_\_\_\_\_  
\_\_\_\_\_

On, 4/22/08, I served the following documents:

Writ of Habeas Corpus  
\_\_\_\_\_  
\_\_\_\_\_

on the below named individual(s) by depositing true and correct copies thereof in the United State mail in Represa, California, with postage fully prepaid thereon, addressed as follows:

- |   |          |
|---|----------|
| 1. <u>Northern District of California</u> | 2. _____ |
| <u>450 Golden Gate Ave, Box 36060</u>     | _____    |
| <u>San Francisco CA, 94102</u>            | _____    |
| _____                                     | _____    |
| _____                                     | _____    |

I have read the above statements and declare under the penalty of perjury of the laws of the State of California that the foregoing is true and correct.

Executed this 22 day of April, 08, at California State Prison - Sacramento, Represa, California.

(Signature) Sam Dante Gray

(1)

Exhibit



FILED  
07 NOV -6 PM 5:06  
RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

SAM GRAY,

No. C 07-4964 WHA (PR)

Petitioner,

**ORDER OF DISMISSAL**

vs.

WALKER, Warden,

Respondent.

Petitioner sent the court a document asking for an enlargement of time to file a federal habeas petition. In an effort to protect petitioner's rights, the document was treated as commencing a new case. The clerk sent petitioner a notice informing him that he had failed to pay the five-dollar filing fee or apply for leave to proceed in forma pauperis. A copy of the court's form for applications to proceed in forma pauperis was provided with the notice, along with a return envelope. Petitioner was informed that if he did not either pay the fee or file the application within thirty days the case would be dismissed. The time has expired and no response has been received.

This case is therefore **DISMISSED** without prejudice. The clerk shall close this file.

**IT IS SO ORDERED.**

Dated: November 6, 2007.

  
\_\_\_\_\_  
WILLIAM ALSUP  
UNITED STATES DISTRICT JUDGE

G:\PRO-SE\WHA\HC.07\GRAY4964.DSM.wpd

UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

SAM GRAY,

Plaintiff,

v.

WALKER et al,

Defendant.

---

Case Number: CV07-04964 WHA

**CERTIFICATE OF SERVICE**

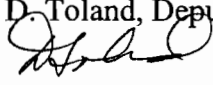
I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on November 6, 2007, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Sam Gray  
V-59334/ C-5-107  
Sacramento State Prison  
PO Box 290066  
Represa, CA 95671

Dated: November 6, 2007

Richard W. Wieking, Clerk  
By: D. Toland, Deputy Clerk



FILED  
07 NOV -6 PM 5:06  
RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

SAM GRAY,

No. C 07-4964 WHA (PR)

Petitioner,

**JUDGMENT**

vs.

WALKER, Warden,

Respondent.

Pursuant to the court's order entered today, a judgment of dismissal without prejudice is hereby entered. Plaintiff shall receive no relief by way of his petition.

**IT IS SO ORDERED.**

Dated: November 6, 2007.

  
\_\_\_\_\_  
WILLIAM ALSUP  
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

SAM GRAY,

Plaintiff,

v.

WALKER et al,

Defendant.

---

Case Number: CV07-04964 WHA

**CERTIFICATE OF SERVICE**

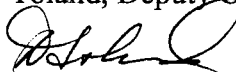
I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on November 6, 2007, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Sam Gray  
V-59334/ C-5-107  
Sacramento State Prison  
PO Box 290056  
Represa, CA 95671

Dated: November 6, 2007

Richard W. Wieking, Clerk  
By: D. Toland, Deputy Clerk



(2)

Exhibit



# Memorandum

Date: 10-17-07  
To: CADE  
Correctional Counselor  
From: Litigation Office, California State Prison-Sacramento, Represa, CA 95671-0027  
Subject: SERVICE OF LEGAL DOCUMENTS -  
CERTIFIED TRUST ACCOUNT STATEMENTS (IN FORMA PAUPERIS)  
Inmate Name & Number: GRAY, Sam (V-59334)  
Housing: FC5-107U

Per DOM section 140101.19.1, regarding inmates filing for In Forma Pauperis status, "Inmates shall not handle completed CDC Forms 193 or Certified Trust Statements... It shall be provided to a designated staff member, who shall place it in the package in accordance with current legal mail procedures, prior to sealing and initialing of the envelope."

Therefore, the following procedure is necessary:

- Please call for the inmate and have him bring his legal paperwork with him. It needs to be ready for mailing. (Advise him to be ready to go BEFORE sending application to the Trust Office in the future.)
- After checking the inmate's I.D. and assuring it matches the paperwork being mailed, search the contents of the envelope for contraband, and then place the Certified Trust Account Statement in his envelope.
- Seal the envelope, then sign and date per Legal Mail procedure. The envelope needs to be taken to the mailroom by you.  
\* Please note this change in procedure of bringing envelope to the mailroom instead of leaving it in Unit Legal Mailbox is the only change to the procedure.
- Both the Counselor and Inmate need to sign and date the attached 128b stating that this procedure was followed. Please forward the 128b to Records for filing or return it with this paperwork to the Litigation Office. Please ensure this memo returns to our office in order for us to log it as completed.
- Please note this document is time sensitive as the court has given the inmate a deadline. Please serve within 7 business days from date of this memo.
- If inmate claims he's not ready, please attempt service again within a day or two. If inmate is still not ready, please return the paperwork to our office. We will destroy the statement, and the inmate will need to restart the process when he is ready. If inmate refuses, please also return paperwork to our office for us to destroy.
- Only ONE statement per envelope. If there are multiple statements attached to this memo, return any unused statements to Litigation.

Thank you for your help in this process.

If you have any questions or concerns please contact Jen Harte at extension 3123.

D. Cade  
Signature of staff member serving the document(s)

10/18/07  
Date Served

LINDA YOUNG  
Litigation Coordinator

MAIL CARD (CDC FORM 119)  
SPECIAL PURPOSE LETTERS

NAME: GRAY, S

CDC# V-59334

DATE DESTINATION 2006

1/30/06	PHILIP BROOKS 1442A WALNUT ST # 233 BERKELEY CA 94709
5/3/06	PHILIP BROOKS 1442A WALNUT ST # 233 BERKELEY CA 94709
9/29/06	PHILIP BROOKS 1442A WALNUT ST # 233 BERKELEY CA 94709
7/24/07	SUPERIOR COURT OF CALIFORNIA 1225 FALLON ST OAKLAND, CA 94612-4293
8/17/07	SUPREME COURT OF CALIFORNIA 350 MCALLISTER ST SAN FRANCISCO, CA 94102
8/21/07	1 <sup>ST</sup> DISTRICT COURT OF APPEAL 730 HARRISON ST SAN FRANCISCO, CA 94107
8/21/07	SUPREME COURT OF CALIFORNIA 350 MCALLISTER ST SAN FRANCISCO, CA 94102
9/21/07	US DISTRICT COURT 450 GOLDEN GATE BLVD SAN FRANCISCO, CA 94102
10/19/07	US COURT OF APPEALS 450 GOLDEN GATE BLVD SAN FRANCISCO, CA 94102

TS210B

CALIFORNIA DEPARTMENT OF CORRECTIONS  
ITAS TRUST ACCOUNT DISPLAY

## ----- ACCOUNT INFORMATION -----

## ----- SPECIAL ITEMS -----

ACCOUNT NUMBER: V59334  
 ACCOUNT NAME: GRAY, SAM DONTÉ  
 ACCOUNT TYPE: I  
 CURRENT BALANCE: 0.00  
 HOLD BALANCE: 0.00  
 ENCUM. BALANCE: 0.00  
 AVAILABLE: 0.00  
 PRIVILEGE GROUP: A  
 LAST CANTEEN: 09/19/2006

## ----- ACCOUNT TRANSACTIONS -----

-----TS210CA

DATE	TRAN	AMOUNT	DESCRIPTION	CHECK NUM	COMMENT	BALANCE
12/01/05	W521	21.00	FUND RAISER CHA		501682BANQ	50.32
12/06/05	FC03	50.32	DRAW-FAC 3		501735CFAC	0.00
05/15/06	DD30	84.00	CASH DEPOSIT ON		MR6964ROC	84.00
07/18/06	FC03	84.00	DRAW-FAC 3		600132CFAC	0.00
08/14/06	FR01	3.39-	CANTEEN RETURN		600448	3.39
09/19/06	FC03	3.39	DRAW-FAC 3		CFAC600846	0.00

PAGE# 1 OF 2 PAGES

*Trust acct acty.  
 CCI Code 11/29/07*

(3)

Exhibit

TS210B CALIFORNIA DEPARTMENT OF CORRECTIONS  
 ITAS TRUST ACCOUNT DISPLAY

## ----- ACCOUNT INFORMATION -----

## ----- SPECIAL ITEMS -----

ACCOUNT NUMBER: V59334  
 ACCOUNT NAME: GRAY, SAM DONTÉ  
 ACCOUNT TYPE: I  
 CURRENT BALANCE: 12.54  
 HOLD BALANCE: 0.00  
 ENCUM. BALANCE: 0.00  
 AVAILABLE: 12.54  
 PRIVILEGE GROUP: A  
 LAST CANTEEN: 09/19/2006

## ----- ACCOUNT TRANSACTIONS -----

-----TS210CA

DATE	TRAN	AMOUNT	DESCRIPTION	CHECK NUM	COMMENT	BALANCE
09/19/06	FC03	3.39	DRAW-FAC 3		CFAC600846	0.00
01/04/08	VD54	4.94	INMATE PAYROLL-		701847/DEC	4.94
02/04/08	VD54	2.84	INMATE PAYROLL-		702198/JAN	7.78
02/04/08	VD54	7.02	INMATE PAYROLL-		702198/JAN	14.80
02/20/08	W415	5.00	CASH WITHDRAWAL	205-044383	702398C/WD	9.80
03/04/08	VD54	2.74	INMATE PAYROLL-		702526/FEB	12.54

PAGE# 1 OF 3 PAGES



4

Exhibit

SECOND & THIRD WATCH CONTROL OFFICERS WILL  
READ THIS MEMO OVER PUBLIC ADDRESS SYSTEM

## MEMORANDUM

LAST REVISED: 2/7/08 @ 7:00 P.M.

Date: February 7, 2008  
To: C-FACILITY STAFF AND INMATE POPULATION  
From: California State Prison-Sacramento, Represa, CA. 95671  
Subject: C-FACILITY OPERATIONS FOR THURSDAY, FEBRUARY 7, 2008, UNTIL FURTHER NOTICE

Due to a riot involving Asian and Black inmates which occurred on the C-Facility Main Yard on 2/7/08, at approximately 1400 hours, effective today, 2/7/08, all Asian and Black inmates, and those celled with them, are on lockdown status. Northern Hispanic inmates and those celled with them, will continue their modified program status. All remaining inmates will continue normal programming. (Reference Incident Report # SAC-FAC-08-02-0071 & attached lists.)

**Feeding:** Cell feeding for all inmates.  
**Work & Education:** No work or education for all Asian and Black inmates, and those celled with them. However, inmates assigned to the Academic and Bridging Program will continue to participate with in-cell assignments.

Modified work program in assigned Buildings, Second and Third Watch, for Northern Hispanic inmates and those celled with them. Normal work/education programs for the remaining population.

**Yard:** No yard for all Asian and Black inmates, and those celled with them.

Concrete Yard program for Northern Hispanic inmates and those celled with them, on Mondays, Wednesdays and Fridays, from 1330-1545 hours for Blocks 5 & 7; On Tuesdays, Thursdays and Saturdays, from 1330-1545 hours for Blocks 6 & 8. Northern Hispanic Yard will consist of 20 inmates per concrete Yard. No Main Yard program for Northern Hispanic inmates and those celled with them. Normal yard programs for the remaining inmate population. Normal Yard program for all Dorm inmates.

**Evening Program:** No evening program for all Level IV inmates. Normal program for all Dorm inmates.

**Telephone:** No telephone privileges for all Asian and Black inmates, and those celled with them. Normal telephone privileges for the remaining inmate population.

**Showers:** Controlled unrestrained showers, one cell at a time, on Tuesdays, Thursdays, and Saturdays, for all Asian and Black inmates, and those inmates celled with them. Normal shower program for the remaining inmate population.

**Visiting:** No visiting for all Asian and Black inmates, and those celled with them. All Northern Hispanics, and those celled with them, shall be escorted to and from their visit unrestrained. Normal visiting for the remaining inmate population.

**Family Visiting:** No family visits for all Asian and Black inmates, and those celled with them. Normal family visiting for the remaining inmate population.

**Religious Services:** Chaplains by request for all Asian and Black inmates, and those inmates celled with them. Chaplains by request for all Northern Hispanic inmates and those celled with them. Normal religious services for the remaining inmate population.

## C-FACILITY OPERATIONS FC THURSDAY, FEBRUARY 7, 2008, UN FURTHER NOTICE

**Medical Services:** Medical services will be provided by LVN's during rounds. If necessary, all Asian and Black inmates, and those inmates celled with them on lockdown status, will be escorted/transported unrestrained to the Clinic. Northern Hispanics and those celled with them, who are ducated will be escorted to the Clinic based on the established Hispanic rotational schedule. The Northern and Southern Hispanic schedule is subject to change per emergency. Normal medical services for the remaining inmate population.

**Canteen:** No canteen for all Asian and Black inmates, and those celled with them. Northern Hispanics and those celled with them will be escorted to the canteen by a Building Officer. Normal canteen program for the remaining inmate population.

**Legal Library:** All Asian and Black inmates, and those inmates celled with them, will use the paging process. All Northern Hispanics and those celled with them shall have physical access to the Law Library based on the Hispanic Access Rotational Schedule, paging otherwise. Normal library program for the remaining inmate population.

**Clothing Exchange:** Clothing exchange will be at the cell door for all Asian and Black inmates, Northern Hispanics, and those celled with them. Normal clothing exchange for the remaining inmate population.

**Packages & Property:** No packages/special purchases delivery for all Asian and Black inmates, and those celled with them. Normal packages/special purchases delivery for the remaining inmate population. Normal property delivery for all inmates.

**MAC:** No MAC program for all Asian and Black inmates, and those celled with them. Modified MAC representatives in assigned Buildings only, no inter-Building access for Northern Hispanics or those celled with them.

Normal MAC Program for all remaining MAC members (Reference Warden's Memo dated April 18, 2005).

**NA/AA & Men's Group:** No NA/AA & Men's Group for all Asian and Black inmates, and those celled with them. Normal NA/AA by ducat, for all Northern Hispanics and those celled with them. Normal for the remaining inmate population.

**Escorts:** All Asian and Black inmates, and those celled with them will be escorted unrestrained; Northern Hispanics and those inmates celled with them will be escorted unrestrained within the Facility. All Level IV, Level I & II inmates will be placed in handcuffs behind their back when departing the Facility.

No Northern Hispanic and Southern Hispanic simultaneous movement is to occur in any location within C-Facility. Northern Hispanic inmates will be housed only in Blocks: 5, 6, 7 and 8. Southern Hispanic inmates will be housed only in Blocks: 1, 2, 3 and 4.

**Note:** Disruptive Group Designation is based upon Staff observation and Suspicion of Disruptive Group activity.

  
D. LEIBER

C-Facility Correctional Captain  
California State Prison-Sacramento

State of California

Department of Corrections and Rehabilitation

SECOND & THIRD WATCH CONTROL OFFICERS WILL  
READ THIS MEMO OVER PUBLIC ADDRESS SYSTEM**MEMORANDUM**

LAST REVISED: 2/11/08 @ 8:54 AM.

Date: February 11, 2008

To: C-FACILITY STAFF AND INMATE POPULATION

From: California State Prison-Sacramento, Represa, CA. 95671

Subject: C-FACILITY OPERATIONS FOR MONDAY, FEBRUARY 11, 2008, UNTIL FURTHER NOTICE

Due to a riot involving Asian and Black inmates which occurred on the C-Facility Main Yard on 2/7/08, at approximately 1400 hours, all Asian and Black inmates, and those celled with them, are on lockdown status.

Due to a stabbing assault involving Southern Hispanic inmates which occurred on the C-Facility Main Yard on 2/11/08, at approximately 0820 hours, effective today, 2/11/08, all Southern Hispanics and those celled with them, are on lockdown status.

Northern Hispanic inmates and those celled with them, will continue their modified program status. All remaining inmates will continue normal programming. (Reference Incident Reports # SAC-FAC-08-02-0071; SAC-FAC-08-02-0080 & attached lists.)

Feeding: Cell feeding for all inmates.

Work & Education: No work or education for all Asian and Black inmates, all Southern Hispanic inmates, and those celled with them. However, inmates assigned to the Academic and Bridging Program will continue to participate with in-cell assignments.

Modified work program in assigned Buildings, Second and Third Watch, for Northern Hispanic inmates and those celled with them. Modified education programs for Northern Hispanic inmates. Normal work/education programs for the remaining population.

Yard: No yard for all Asian and Black inmates; all Southern Hispanic inmates, and those celled with them.

Concrete Yard program for Northern Hispanic inmates and those celled with them, on Mondays, Wednesdays and Fridays, from 1330-1545 hours for Blocks 5 & 7; On Tuesdays, Thursdays and Saturdays, from 1330-1545 hours for Blocks 6 & 8. Northern Hispanic Yard will consist of 20 inmates per concrete Yard. No Main Yard program for Northern Hispanic inmates and those celled with them. Normal yard programs for the remaining inmate population. Normal Yard program for all Dorm inmates.

Evening Program: No evening program for all Level IV inmates. Normal program for all Dorm inmates.

Telephone: No telephone privileges for all Asian and Black inmates; all Southern Hispanic inmates, and those celled with them. Normal telephone privileges for the remaining inmate population.

Showers: Controlled unrestrained showers, one cell at a time, on Tuesdays, Thursdays, and Saturdays, for all Asian and Black inmates; all Southern Hispanic inmates, and those celled with them. Normal shower program for the remaining inmate population.

Visiting: No visiting for all Asian and Black inmates; all Southern Hispanic inmates, and those celled with them. All Northern Hispanics, and those celled with them, shall be escorted to and from their visit unrestrained. Normal visiting for the remaining inmate population.

Family Visiting: No family visits for all Asian and Black inmates; all Southern Hispanic inmates, and those celled with them. Normal family visiting for the remaining inmate population.

Religious Services: Chaplains by request for all Asian and Black inmates, all Southern Hispanic and Northern Hispanic inmates, and those celled with them. Normal religious services for the remaining inmate population.

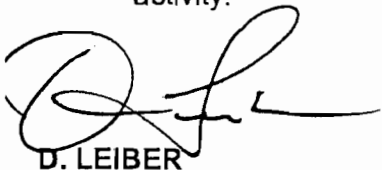


**C-FACILITY OPERATIONS FOR MONDAY, FEBRUARY 11, 2008, UNTIL FURTHER NOTICE**

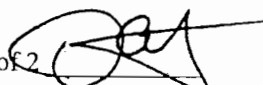
- Medical Services:** Medical services will be provided by LVN's during rounds. If necessary, all Asian and Black, and Southern Hispanic inmates; and those celled with them on lockdown status, will be escorted/transported unrestrained to the Clinic. Medical Ducats will be honored for all inmates on lockdown status. Northern Hispanics and those celled with them, who are ducated will be escorted to the Clinic based on the established Hispanic rotational schedule. The Northern and Southern Hispanic schedule is subject to change per emergency. Normal medical services for the remaining inmate population.
- Canteen:** No canteen for all Asian and Black inmates; all Southern Hispanic inmates, and those celled with them. Northern Hispanics and those celled with them will be escorted to the canteen by a Building Officer. Normal canteen program for the remaining inmate population.
- Legal Library:** All Asian and Black inmates; all Southern Hispanic inmates, and those celled with them, will use the paging process. All Northern Hispanics and those celled with them shall have physical access to the Law Library based on the Hispanic Access Rotational Schedule, paging otherwise. Normal library program for the remaining inmate population.
- Clothing Exchange:** Clothing exchange will be at the cell door for all Asian and Black inmates, all Southern Hispanic and Northern Hispanic inmates, and those celled with them. Normal clothing exchange for the remaining inmate population.
- Packages & Property:** No packages/special purchases delivery for all Asian and Black inmates; all Southern Hispanic inmates, and those celled with them. Normal packages/special purchases delivery for the remaining inmate population. Normal property delivery for all inmates.
- MAC:** No MAC program for all Asian and Black inmates; all Southern Hispanic inmates, and those celled with them. Modified MAC representatives in assigned Buildings only, no inter-Building access for Northern Hispanics or those celled with them.  
Normal MAC Program for all remaining MAC members (Reference Warden's Memo dated April 18, 2005).
- NA/AA & Men's Group:** No NA/AA & Men's Group for all Asian and Black inmates; all Southern Hispanic inmates, and those celled with them. Normal NA/AA by ducat, for all Northern Hispanics and those celled with them. Normal for the remaining inmate population.
- Escorts:** All Asian, Black, and Southern Hispanic inmates, and those celled with them will be escorted unrestrained; Northern Hispanics and those celled with them will be escorted unrestrained within the Facility. All Level IV, Level I & II inmates will be placed in handcuffs behind their back when departing the Facility.

No Northern Hispanic and Southern Hispanic simultaneous movement is to occur in any location within C-Facility. Northern Hispanic inmates will be housed only in Blocks: 5, 6, 7 and 8. Southern Hispanic inmates will be housed only in Blocks: 1, 2, 3 and 4.

Note: Disruptive Group Designation is based upon Staff observation and Suspicion of Disruptive Group activity.



**D. LEIBER**  
C-Facility Correctional Captain  
California State Prison-Sacramento



LAST REVISED: 2/14/08 @ 3:00 PM.

**MEMORANDUM**

Date: February 14, 2008

To: C-FACILITY STAFF AND INMATE POPULATION

From: California State Prison-Sacramento, Represa, CA. 95671

Subject: C-FACILITY OPERATIONS FOR THURSDAY, FEBRUARY 14, 2008, UNTIL FURTHER NOTICE

Effective immediately, and due to the following list of incidents, all Level-IV inmates housed in C-Facility are on lockdown status, until further notice. The only exception will be inmates on the approved Critical Workers List (attached).

On Thursday, February 7, 2008, a riot involving Asian and Black inmates which occurred on the C-Facility Main Yard.

On Monday, February 11, 2008, a stabbing assault involving Southern Hispanic inmates occurred on the C-Facility Main Yard.

On Thursday, February 14, 2008, a battery on an inmate with a weapon resulting in death involving White inmates occurred on the C-Facility Small Side Yard.

For these reasons all Level-IV inmates housed in C-Facility are on lockdown status and the following programming adhered to, until further notice.

**Security:** Cell feeding for all inmates.

**Work & Education:** No work or education for all Level-IV inmates. However, inmates assigned to the Academic and Bridging Program will continue to participate with in-cell assignments. The Level-I Dorm inmates will be utilized as needed for the Yard, Work Center and Dining Room areas.

**Yard:** No yard for all Level-IV inmates. Normal program for all Dorm inmates.

**Evening Program:** No evening program for all Level IV inmates. Normal program for all Dorm inmates.

**Telephone:** No telephone privileges for all Level IV inmates. Normal program for all Dorm inmates.

**Showers:** Controlled unrestrained showers, one cell at a time, on Tuesdays, Thursdays, and Saturdays, for all Level IV inmates. Normal program for all Dorm inmates.

**Visiting:** No visiting for all Level IV inmates. Normal program for all Dorm inmates.

**Family Visiting:** No family visits for all Level IV inmates. Normal program for all Dorm inmates.

**Religious Services:** Chaplains by request for all Level IV inmates. Normal program for all Dorm inmates.

**Medical Services:** Medical services will be provided by LVN's during rounds. If necessary, all Level IV inmates will be escorted/transported unrestrained to the Clinic. Medical Ducats will be honored for all inmates on lockdown status. Northern Hispanics and those celled with them, who are ducated will be escorted to the Clinic based on the established Hispanic rotational schedule. The Northern and Southern Hispanic schedule is subject to change per emergency. Normal program for all Dorm inmates.

**Canteen:** No canteen for all Level IV inmates. Normal program for all Dorm inmates.

**Legal Library:** All Level IV inmates will use the paging process. Normal program for all Dorm inmates.

**Clothing Exchange:** Clothing exchange will be at the cell door for all Level IV inmates. Normal program for all Dorm inmates.



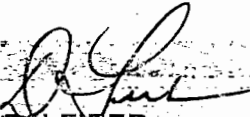


C-FACILITY OPERATIONS FOR THURSDAY, FEBRUARY 14, 2008, UNTIL FURTHER NOTICE

- Packages & Property:** No packages/special purchases delivery for all Level IV inmates. Normal program for all Dorm inmates.
- MAC:** No MAC program for all Level IV inmates. Normal program for all Dorm inmates.
- NA/AA & Men's Group:** No NA/AA & Men's Group for all Level IV inmates.
- Escorts:** All Level IV inmates will be escorted unrestrained within the Facility. All Level IV, Level I & II inmates will be placed in handcuffs behind their back when departing the Facility.

No Northern Hispanic and Southern Hispanic simultaneous movement is to occur in any location within C-Facility. Northern Hispanic inmates will be housed only in Blocks: 5, 6, 7 and 8. Southern Hispanic inmates will be housed only in Blocks: 1, 2, 3 and 4.

Note: Disruptive Group Designation is based upon Staff observation and Suspicion of Disruptive Group activity.

  
D. LEIBER  
C-Facility Correctional Captain  
California State Prison-Sacramento

SECOND & THIRD WATCH CONTROL OFFICERS WILL  
READ THIS MEMO OVER PUBLIC ADDRESS SYSTEM

# MEMORANDUM

LAST REVISED: 2/28/08 @ 7:31 AM.

Date: February 28, 2008

To: C-FACILITY STAFF AND INMATE POPULATION

From: California State Prison-Sacramento, Represa, CA. 95671

Subject: C-FACILITY OPERATIONS FOR THURSDAY, FEBRUARY 28, 2008, UNTIL FURTHER NOTICE

Effective immediately, and due to the following list of incidents, all Level-IV inmates housed in C-Facility are on lockdown status, until further notice. The only exception will be inmates on the approved Critical Workers List (attached).

On Thursday, February 7, 2008, a riot involving Asian and Black inmates which occurred on the C-Facility Main Yard.

On Monday, February 11, 2008, a stabbing assault involving Southern Hispanic inmates occurred on the C-Facility Main Yard.

On Thursday, February 14, 2008, a battery on an inmate with a weapon resulting in death involving White inmates occurred on the C-Facility Small Side Yard.

For these reasons the following lockdown program is in effect until further notice. ALL Level-IV inmates housed in C-Facility will remain on lockdown status pending completion of a Facility search, except for Critical Workers. (See attached list.)

(\*) indicates changes)

Feeding: Cell feeding for all inmates.

Work & Education: (\*) No work or education for all Level-IV inmates, except for Critical Workers. However, inmates assigned to the Academic and Bridging Program will continue to participate with in-cell assignments. The Level-I Dorm inmates will be utilized as needed for the Yard, Work Center and Dining Room areas.

Yard: No yard for all Level-IV inmates. Normal program for all Dorm inmates.

Evening Program: No evening program for all Level IV inmates. Normal program for all Dorm inmates.

Telephone: No telephone privileges for all Level IV inmates. Normal program for all Dorm inmates.

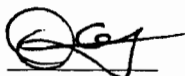
Showers: (\*) Controlled unrestrained showers, one cell at a time, on Tuesdays, Thursdays, and Saturdays, for all Level IV inmates, except for Critical Workers. Normal program for all Critical Workers & Dorm inmates.

Visiting: (\*) Escorted visiting to and from the Visiting Room unrestrained for all Level IV inmates. Normal program for all Dorm inmates.

Family Visiting: No family visits for all Level IV inmates. Normal program for all Dorm inmates.

Religious Services: Chaplains by request for all Level IV inmates. Normal program for all Dorm inmates.

Medical Services: Medical services will be provided by LVN's during rounds. If necessary, all Level IV inmates will be escorted/transported unrestrained to the Clinic. Medical Ducats will be honored for all inmates on lockdown status. Northern Hispanics and those celled with them, who are ducated will be escorted to the Clinic based on the established Hispanic rotational schedule. The Northern and Southern Hispanic schedule is subject to change per emergency. Normal program for all Dorm inmates.



**Canteen:** ☉ No canteen for all Level IV inmates, except for Critical Workers. Normal program for all Dorm inmates.

**Legal Library:** All Level IV inmates will use the paging process. Normal program for all Dorm inmates.

**Clothing Exchange:** Clothing exchange will be at the cell door for all Level IV inmates. Normal program for all Dorm inmates.

**Packages & Property:** No packages/special purchases delivery for all Level IV inmates. Normal program for all Dorm inmates. Normal property delivery for all inmates.

**MAC:** No MAC program for all Level IV inmates. Normal program for all Dorm inmates.

**NA/AA & Men's Group:** No NA/AA & Men's Group for all Level IV inmates.

**Escorts:** All Level IV inmates will be escorted unrestrained within the Facility. All Level IV, Level I & II inmates will be placed in handcuffs behind their back when departing the Facility.

No Northern Hispanic and Southern Hispanic simultaneous movement is to occur in any location within C-Facility. Northern Hispanic inmates will be housed only in Blocks 5, 6, 7 and 8. Southern Hispanic inmates will be housed only in Blocks 1, 2, 3 and 4.

Note: Disruptive Group Designation is based upon Staff observation and Suspicion of Disruptive Group activity.

  
D. LEIBER

C-Facility Correctional Captain  
California State Prison-Sacramento

SECOND & THIRD WATCH CONTROL OFFICERS WILL  
READ THIS MEMO OVER PUBLIC ADDRESS SYSTEM

# MEMORANDUM

LAST REVISED: 3/3/08 @ 10:54 AM.

Date: March 3, 2008

To: C-FACILITY STAFF AND INMATE POPULATION

From: California State Prison-Sacramento, Represa, CA. 95671

Subject: C-FACILITY OPERATIONS FOR MONDAY, MARCH 03, 2008, UNTIL FURTHER NOTICE

On Thursday, February 7, 2008, a riot involving Asian and Black inmates which occurred on the C-Facility Main Yard.

On Monday, February 11, 2008, a stabbing assault involving Southern Hispanic inmates occurred on the C-Facility Main Yard.

On Thursday, February 14, 2008, a battery on an inmate with a weapon resulting in death involving White inmates occurred on the C-Facility Small Side Yard.

Due to the above list of incidents, all Level-IV inmates housed in C-Facility will remain on lockdown status until further notice. The only exception will be inmates on the approved Critical Workers List (attached).

(☉ Indicates changes)

Feeding: Cell feeding for all inmates.

Work & Education: No work or education for all Level-IV inmates, except for Critical Workers. However, inmates assigned to the Academic and Bridging Program will continue to participate with in-cell assignments. The Level-I Dorm inmates will be utilized as needed for the Yard, Work Center and Dining Room areas.

Yard: ☉ No yard for all Level-IV inmates, except for Critical Workers. Modified yard schedule for Critical Workers. Normal program for all Dorm inmates.

Evening Program: No evening program for all Level IV inmates. Normal program for all Dorm inmates.

Telephone: No telephone privileges for all Level IV inmates. Normal program for all Dorm inmates.

Showers: Controlled unrestrained showers, one cell at a time, on Tuesdays, Thursdays, and Saturdays, for all Level IV inmates, except for Critical Workers. Normal program for all Critical Workers & Dorm inmates.

Visiting: Escorted visiting to and from the Visiting Room unrestrained for all Level IV inmates. Normal program for all Dorm inmates.

Family Visiting: No family visits for all Level IV inmates. Normal program for all Dorm inmates.

Religious Services: Chaplains by request for all Level IV inmates. Normal program for all Dorm inmates.

Medical Services: Medical services will be provided by LVN's during rounds. If necessary, all Level IV inmates will be escorted/transported unrestrained to the Clinic. Medical Ducats will be honored for all inmates on lockdown status. Northern Hispanics and those celled with them, who are ducated will be escorted to the Clinic based on the established Hispanic rotational schedule. The Northern and Southern Hispanic schedule is subject to change per emergency. Normal program for all Dorm inmates.



State of California

Department of Corrections and Rehabilitation

SECOND & THIRD WATCH CONTROL OFFICERS WILL  
READ THIS MEMO OVER PUBLIC ADDRESS SYSTEM**MEMORANDUM**

LAST REVISED: 3/5/08 @ 9:49 AM.

Date: March 5, 2008

To: C-FACILITY STAFF AND INMATE POPULATION

From: California State Prison-Sacramento, Represa, CA. 95671

Subject: C-FACILITY OPERATIONS FOR THURSDAY, MARCH 6, 2008, UNTIL FURTHER NOTICE

Effective 3/6/08, all Level-IV inmates housed in C-Facility will resume normal programming. Northern Hispanic inmates and those celled with them, will continue their modified program status. Normal program for the remaining inmate population

Feeding: Cell feeding for all inmates.

Work & Education: Modified work program in assigned Buildings, Second and Third Watch, for Northern Hispanic inmates and those celled with them. Modified education programs for Northern Hispanic inmates. Normal work/education programs for the remaining population.

Yard: Concrete Yard program for Northern Hispanic inmates and those celled with them, on Mondays, Wednesdays and Fridays, from 1330-1545 hours for Blocks 5 & 7; On Tuesdays, Thursdays and Saturdays, from 1330-1545 hours for Blocks 6 & 8. Northern Hispanic Yard program consist of 20 inmates per concrete Yard. Normal yard program for Northern Hispanic inmates and those celled with them. Normal yard programs for the remaining inmate population. Normal Yard program for all Dorm inmates.

Evening Program: No evening program for all Level-IV inmates. Normal program for all Dorm inmates.

Telephone: Normal telephone privileges for all inmates.

Showers: Normal shower program for all inmates.

Visiting: All Northern Hispanics, and those celled with them, shall be escorted to and from their visit unrestrained. Normal visiting for the remaining inmate population.

Family Visiting: Normal family visiting for all inmates.

Religious Services: Chaplains by request for all Northern Hispanic inmates and those celled with them. Normal religious services for the remaining inmate population.

Medical Services: Medical services will be provided by LVN's during rounds. Northern Hispanics and those celled with them, who are ducated will be escorted to the Clinic based on the established Hispanic rotational schedule. The Northern and Southern Hispanic schedule is subject to change per emergency. Normal medical services for the remaining inmate population.

Canteen: Northern Hispanics and those celled with them will be escorted to the canteen by a Building Officer. Normal canteen program for the remaining inmate population.

Legal Library: All Northern Hispanics and those celled with them shall have physical access to the Law Library based on the Hispanic Access Rotational Schedule, paging otherwise. All Southern Hispanics and those celled with them shall have access to the Law Library based on the Hispanic Access Rotational Schedule. Normal library program for the remaining inmate population.

Clothing Exchange: Clothing exchange will be at the cell door for all Northern Hispanics, and those celled with them. Normal clothing exchange for the remaining inmate population.

**C-FACILITY OPERATIONS FROM THURSDAY, MARCH 6, 2008, UNTIL FURTHER NOTICE**

- Packages & Property:** Normal package/special purchase & property delivery for all inmates.
- MAC:** Modified MAC representatives in assigned Buildings only, no inter-Building access for Northern Hispanics or those celled with them.
- Normal MAC Program for all remaining MAC members (Reference Warden's Memo dated April 18, 2005).
- NA/AA & Men's Group:** Normal NA/AA by ducat, for all Northern Hispanics and those celled with them. Normal for the remaining inmate population.
- Escorts:** All Northern Hispanics and those inmates celled with them will be escorted unrestrained within the Facility. All Level IV, Level I & II inmates will be placed in handcuffs behind their back when departing the Facility.

No Northern Hispanic and Southern Hispanic simultaneous movement is to occur in any location within C-Facility. Northern Hispanic inmates will be housed only in Blocks 5, 6, 7 and 8. Southern Hispanic inmates will be housed only in Blocks 1, 2, 3 and 4.

Note: Disruptive Group Designation is based upon Staff observation and Suspicion of Disruptive Group activity.

  
**D. LEIBER**

C-Facility Correctional Captain  
California State Prison-Sacramento



5

Exhibit

**S155516**

**IN THE SUPREME COURT OF CALIFORNIA**

**En Banc**

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In re SAM DONTE GRAY on Habeas Corpus

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The petition for writ of habeas corpus is denied.

George, C. J., was absent and did not participate.

**SUPREME COURT  
FILED**

**JAN 30 2008**

Frederick K. Ohlrich Clerk

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Deputy

**BAXTER**

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Acting Chief Justice

Sanforay V-591334C-6-206  
P.O. Box 290066  
Riverside Ca, 925071

*ly*

RECEIVED

APR 29 2008

RICHARD W. HENNING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

NORTHERN DISTRICT of California  
450 Golden Gate Ave Box 36060  
San Francisco Ca, 94102

